

REMARKS/ARGUMENTS

Claim 1 has been amended to incorporate the definition of “elastic” as stated at page 3, lines 17-19 of the specification. Accordingly, no new material is added and the entry of this amendment appears proper.

The Examiner has rejected claims 1-4 35 USC §102(b) as being anticipated by Balchan (US 3,605,818). The Examiner has stated that Balchan discloses a process for winding a melt spun monofilament elastic fiber onto a core for forming a package. The applicants contest this assertion. Specifically, it is abundantly clear that Balchan relates to multifilament yarns rather than monofilament fiber as recited in the claims of the present application. For example, col 3, lines 42-43 of Balchan recites, “In practicing the method of my invention, I utilize two or more *multifilament* yarns . . .” (emphasis added). There is also no teaching that the fibers should be melt spun fibers. The Examiner has cited col 4 lines 41-72 for support, but the only hint of melt spinning in this section is a description that two polymers could be melt mixed and thereafter extruded in filamentary form (see col 4, lines 70-72). While melt spun fibers may be included in this description, the description is broad enough to include fibers which are not melt spun, for example spun bond fibers. Finally there is no suggestion in the passages quoted by the Examiner that the fiber of Balchan is elastic. This is particularly evident in the amended set of claims which now incorporates the definition of “elastic”, making it clear that a very special class of fibers is being claimed and not any fiber which may exhibit some minimal degree of elasticity.

As Balchan is clearly not a novelty-destroying reference, Balchan would only be relevant in evaluating whether a person of ordinary skill in the art would seek to modify elastic fiber in the way taught by Balchan. For the reasons set forth in the previous response, a person in the art of elastic fibers would not seek to incorporate the teaching of Balchan as the problems Balchan solves are not relevant to elastic monofilament fibers. Accordingly, it is respectfully requested that all rejections based on Balchan be withdrawn.

Next, the Examiner has rejected claims 1-3 and 7-8 under 37 USC § 102(e) as being anticipated by Koyanagi et al. (US 2003/0108740). The Examiner states that Koyanagi relates to a process for winding a melt spun monofilament elastic fiber onto a core for forming a package. Applicants also respectfully contest this assertion, as there is no teaching that Koyanagi’s fibers are “elastic” as defined in the present specification, and now expressly recited in the claims. The

Examiner has responded to previous arguments along this line by referring to paragraph 12 for the proposition that Koyanagi discloses the fibers to be “excellent in elastic recovery”. Applicants respectfully point out that paragraph 12 is describing one of the problems to be solved by the invention set forth in Koyanagi. It appears that Koyanagi is saying that the “excellent” elastic recovery leads to high tension and therefore yarn breakage. That Koyanagi teaches the bicomponent structure as a partial solution to this problem, suggests that elasticity is to be minimized. At any rate, even if such fibers have some elasticity, they are not “elastic” fibers as that term is defined in the specification, and now included in the claims.

In responding to the previous response, the Examiner has stated, “The reason for the elongation is irrelevant to anticipation. (emphasis original)” Applicants agree with this statement, but as shown above, Koyanagi does not anticipate the present claims. When evaluating whether a person of ordinary skill in the art of elastic fiber would apply the teachings of Koyanagi to an elastic fiber, the reason for using a fiber having an elongated cross section is highly relevant. As no reason is given for the elongated cross-section in Koyanagi, there is no reason why a person of ordinary skill in the fiber art would incorporate this teaching for use in elastic fibers. As explained in the last response, this is particularly true when there are likely reasons for flattening the fiber which would have no relevance to elastic fiber used in textiles. Accordingly, it is respectfully requested that all rejections based on Koyanagi also be withdrawn.

The applicants courteously request that the Examiner reconsider the claims in light of the above amendments and arguments, withdraw the rejections, and pass the case to allowance.

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Respectfully submitted,

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